

HOUSE BILL 746

By Hill

AN ACT to amend Tennessee Code Annotated, Title 36,
Chapter 3, Part 6, relative to orders of protection
and ex parte orders of protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-3-605, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) Within twenty (28) days of service of such order on the respondent under this part, a hearing shall be held, at which time the court shall either dissolve any ex parte order that has been issued, or shall, if the petitioner has proved the allegation of domestic abuse, stalking, or sexual assault by a preponderance of the evidence, extend the order of protection for a definite period of time, not to exceed one (1) year, unless a further hearing on the continuation of such order is requested by the respondent or the petitioner; in which case, on proper showing of cause, such order may be continued for a further definite period of one (1) year, after which time a further hearing must be held for any subsequent one-year period. Any ex parte order of protection shall be in effect until the time of the hearing, and, if the hearing is held within twenty-eight (28) days of service of such order, the ex parte order shall continue in effect until the entry of any subsequent order of protection issued pursuant to § 36-3-609. If no ex parte order of protection has been issued as of the time of the hearing, and the petitioner has proven the allegation of domestic abuse, stalking, or sexual assault by a preponderance of the evidence, the court may, at that time, issue an order of protection for a definite period of time, not to exceed one (1) year.

SECTION 2. Tennessee Code Annotated, Section 36-3-605, is amended by adding the following new subsections thereto:

(e) If a court extends an order of protection at the conclusion of a hearing pursuant to this section a court shall make specific findings of fact that the person has committed domestic abuse as defined in this part.

(f) Any act that constitutes the offense of violation of an order of protection, including an ex parte order of protection, shall be subject to arrest as set for in § 36-3-619.

(g) If a law enforcement officer has probable cause to believe a person is a victim of domestic abuse, stalking, or sexual assault, the officer shall make a complete report and file the report with the officer's supervisor. The officer's supervisor shall review the report and transmit to a magistrate or judge the information necessary for issuance of an order of protection. Upon good cause shown, a court may issue an ex parte order of protection pursuant to this subsection (e).

SECTION 3. Tennessee Code Annotated, Section 36-3-606, is amended by adding the following new subsection thereto:

(h) Notwithstanding the Ex Parte Order of Protection form set out in § 36-3-604, the provisions of § 36-3-605(b) relative to a hearing on an ex parte protection order shall also apply to and be incorporated into all ex parte order of protections granted on or after July 1, 2010. The language of § 36-3-605(b) may be appended to, or written or typed onto the Ex Part Order of Protection form until such time as the existing forms are changed to reflect the revised language.

SECTION 4. This act shall take effect July 1, 2011, the public welfare requiring it.